

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION

Serial Number: 09/902,683
Group Art Unit: 2131
Title: PIGGYBACKING VPN INFORMATION IN BGP
FOR NETWORK BASED VPN ARCHITECTURES
Filing Date: July 12, 2001
Inventors: Ould-Brahim et al.
Agent's Ref: 71493-1004

November 22, 2001

U.S. Commissioner of Patents and Trademarks
U.S. Patent and Trademark Office
Washington, D.C.
20231 U.S.A.

PETITION UNDER 37 C.F.R. 1.47(a) to allow two inventors
to make an application on behalf of both themselves
and an omitted inventor because the omitted inventor
cannot be found or reached

Sir:

1. In accordance with the provisions of 37 CFR 1.47(a), the Applicant petitions the Commissioner to allow the inventors Hamid Ould-Brahim and Gregory V. Wright to make this application on behalf of both themselves and an omitted inventor (Bryan Gleeson) because the omitted inventor cannot be found or reached for signing of the declaration.
2. A "Declaration for Patent Application and Power of Attorney" in connection with the above identified patent

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application ("the Application") is enclosed with this petition. An Assignment in connection with the Application is enclosed with this petition. The Declaration and the Assignment have been signed by Mr. Ould-Brahim and Mr. Wright. Mr. Gleeson's signature is missing from the Declaration and from the Assignment because he cannot be reached.

Proof of the Pertinent Facts

3. Mr. Ould-Brahim and Mr. Wright submitted an invention disclosure submission to the Nortel Networks Limited ("Nortel") patent department on June 22, 2000. Nortel is the assignee of the Application.
4. On June 26, 2000, I was asked by Nortel to prepare a patent application based on the invention disclosure submission submitted by Mr. Ould-Brahim and Mr. Wright. I asked S. Mark Budd, a lawyer and patent agent trainee employed by the associated firms of Smart & Biggar and Fetherstonaugh & Co., to assist me in the preparation of the Application. The Application was eventually filed in the United States Patent and Trademark Office on July 12, 2001.
5. On or about July 13, 2000, Mr. Ould-Brahim asked Mr. Budd to add Mr. Gleeson as an inventor for the Application. Mr. Gleeson had been an employee of Shasta Networks, Inc. since at least as early as January 31, 1998. Shasta Networks, Inc. was acquired by Nortel prior to the submission of the invention disclosure submission by Mr. Ould-Brahim and Mr. Wright. As an employee, Mr. Gleeson was under an obligation to assign to Nortel all rights in any invention made during the course of his employment. A copy of the employment contract signed by Mr. Gleeson is enclosed.

6. On, or about October 17, 2001, Mr. Budd was informed by Allan Millard of Nortel that Mr. Gleeson was no longer employed at Nortel.
7. Subsequent to the filing of the Application, Mr. Budd attempted to contact Mr. Gleeson in order to obtain his signature on the Declaration and on the Assignment. An affidavit sworn by Mr. Budd and explaining his attempts to locate and contact Mr. Gleeson is enclosed.

The last known address of the omitted inventor

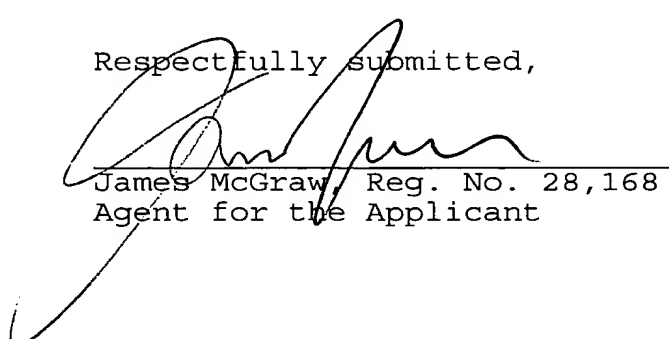
8. The last known address of the omitted inventor, Bryan Gleeson, is:

19500 Pruneridge Avenue, #3302
Cupertino, CA
United States of America

Relief sought

9. Consequently, the Applicant petitions the Commissioner to allow Mr. Ould-Brahim and Mr. Wright to make this application on behalf of themselves and on behalf of the omitted inventor, Bryan Gleeson. Such action is necessary to preserve the rights of Nortel Networks Limited as failure to proceed could result in delay of issuance of the patent.

Respectfully submitted,

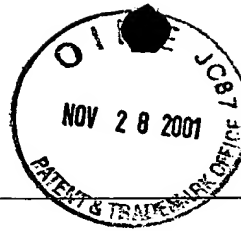


James McGraw, Reg. No. 28,168
Agent for the Applicant

SMART & BIGGAR
P. O. Box 2999, Station D
900-55 Metcalfe Street
Ottawa, Ontario
Canada K1P 5Y6
Telephone: (613) 232-2486
Fax: (613) 232-8440



JMC:SMB:



A F F I D A V I T

I, STUART MARK BUDD, of the City of Ottawa, in the Province of Ontario, Canada, MAKE OATH AND SAY AS FOLLOWS:

1. I am currently employed as a lawyer and as a patent agent trainee by the associated firms of Fetherstonaugh & Co. and Smart & Biggar.
2. On or about June 27, 2000, I was asked by James McGraw of Fetherstonaugh & Co. to assist in the preparation of a patent application. This patent application was eventually filed in the United States Patent and Trademark Office on July 12, 2001, and given a serial number of 09/902,683 ("the Application").
3. On or about October 17, 2001, I was asked by Allan Millard of Nortel Networks Limited (the Assignee of the Application) to attempt to contact Bryan Gleeson so that Mr. Gleeson could sign a Declaration and an Assignment with respect to the Application.
4. On November 1, 2001, I sent a package to Mr. Gleeson's last known address by courier. Mr. Gleeson's last known address is 19500 Pruneridge Avenue, #3302, Cupertino, California, 95014, U.S.A. The package included a copy of the Application, a copy of the Declaration, a copy of the Assignment, and a letter asking Mr. Gleeson to sign the Declaration and the Assignment and return them to us by November 14, 2001.

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5. On or about November 5, 2001, Purolator Courier confirmed delivery of the package to Mr. Gleeson's last known address on November 2, 2001 at 10:55 am. The package was signed for upon delivery by a person called J. Lin at that address.
6. On November 14, 2001, I attempted to contact Mr. Gleeson by telephone. To determine Mr. Gleeson's telephone number, I consulted the web site <http://www.411.com>. There was no telephone number listed for a Bryan Gleeson in Cupertino, California. There were two telephone numbers listed for J. Lin in Cupertino, California.
7. I called the first telephone number at around 11:10 am EST, and reached a voice mail box. I left a message explaining that I was attempting to reach Bryan Gleeson, and that I had sent a package by courier which was for signed by J. Lin. I asked whoever received the message to call me collect.
8. I called the second telephone number at around 11:15 am EST, and reached what sounded like either a fax or a modem.

9. As of November 22, 2001, I have not heard from either Mr. Gleeson or J. Lin, either in response to the letter I sent on November 1, 2001, or in response to the voice mail message I left on November 14, 2001.

SWORN BEFORE ME at the City of
Ottawa, Province of Ontario, Canada,
this 22nd day of November 2001.

Mark E Budd
S. MARK BUDD

John B. Smith

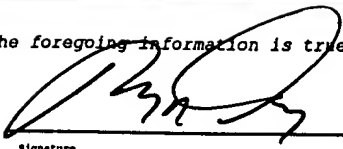
A Commissioner, etc.

COPY

RECORDATION FORM COVER SHEET
PATENTS ONLY

Our Docket No.: 13716

To the Honorable Commissioner of Patents and Trademarks:
Please record the attached original documents or copy thereof.

<p>1. Name of conveying party(ies): Hamid Ould-Brahim and Gregory V. Wright</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		<p>2. Name and address of receiving party(ies) Name: Nortel Networks Limited</p> <p>Street Address: 2351 Boulevard Alfred-Nobel</p> <p>City: St. Laurent state Quebec Zip: H4S 2A9 CANADA</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>3. Nature of conveyance:</p> <p><input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other</p> <p>Execution Date: <u>10/18/2001</u></p>		<p>4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: _____</p> <p>Title: <u>PIGGYBACKING VPN INFORMATION IN BGP FOR NETWORK BASED VPN ARCHITECTURES</u></p> <p>A. Patent Application No. (s) <u>09/902,683</u> Filed: <u>07/12/2001</u> B. Patent No. (s) _____</p> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>5. Name and address of party to whom correspondence concerning document should be mailed: Name: Ralph A. Dowell Internal Address: _____ Street Address: Suite 309, 1215 Jefferson Davis Highway Arlington, VA 22202-3124 (703) 415-2555</p>		<p>6. Total number of applications and patents involved: <u>1</u></p> <p>7. Total fee (37CFR 3.41) \$ <u>40.00</u> <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number: _____ (Attach duplicate copy of this page if paying by deposit account)</p>	
<p>9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</p> <p><u>Ralph A. Dowell 26,868</u>  <u>11/27/2001</u></p> <p>Name of Person signing Signature Date</p> <p>Total number of pages including cover sheet, attachments and document: <u>2</u></p>			

Mail documents to be recorded with required cover sheet information to:
Commission of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

ASSIGNMENT NORTEL NETWORKS LIMITED

For value received, I (we) the undersigned, whose full post office address(es) is (are) adjacent my (our) name(s), hereby sell, assign and transfer to:

NORTEL NETWORKS LIMITED

whose full post office address is: 2351 Boulevard Alfred-Nobel
St. Laurent, Quebec
Canada, H4S 2A9

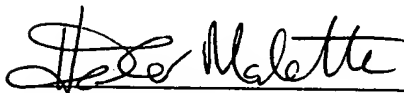
its successors, assigns and legal representatives, the entire right, title and interest, including priority rights, for all countries, in and to certain inventions relating to:

PIGGYBACKING VPN INFORMATION IN BGP FOR NETWORK BASED VPN ARCHITECTURES

set forth in an application for letters patent of **the UNITED STATES OF AMERICA**

Serial No. 09/902,683, filed July 12, 2001

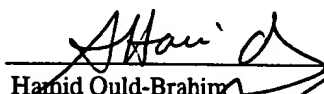
and all rights and privileges under any and all letters patent that may be granted for said inventions.



Witness Signature

HEATHER MALETTE

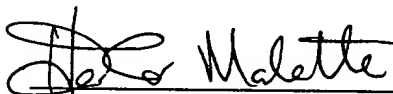
Witness Name (print)



Hamid Ould-Brahim

21 Wynridge Place
Kanata, Ontario K2M 2S8 CANADA

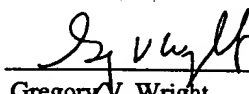
Date October 18 2001
Assignor



Witness Signature

HEATHER MALETTE

Witness Name (print)



Gregory V. Wright

41 Delamere Drive
Stittsville, Ontario K2S 1R2 CANADA

Date Oct 18, 2001
Assignor

Witness Signature

Witness Name (print)

Date
Assignor

Witness Signature

Witness Name (print)

Date
Assignor

☐ Additional Assignors on attached Page 2

PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

The following confirms an agreement between me (Bryan Gleeson) and Shasta Networks, Inc. (formerly, IMX Systems, Inc.), a Delaware corporation (the "Company"), which is a material part of the consideration for my employment by Company:

1. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement or my employment with Company. I will not violate any agreement with or rights of any third party or, except as expressly authorized by Company in writing hereafter, use or disclose my own or any third party's confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of Company. Further, I have not retained anything containing any confidential information of a prior employer or other third party, whether or not created by me.

2. Company shall own all right, title and interest (including patent rights, copyrights, trade secret rights, mask work rights, *sui generis* database rights and all other intellectual and industrial property rights of any sort throughout the world) relating to any and all inventions (whether or not patentable), works of authorship, mask works, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by me during the term of my employment with Company to and only to the fullest extent allowed by California Labor Code Section 2870 (which is attached as Appendix A) (collectively "Inventions") and I will promptly disclose all Inventions to Company. I will also disclose anything I believe is excluded by Section 2870 so that the Company can make an independent assessment. I hereby make all assignments necessary to accomplish the foregoing. I shall further assist Company, at Company's expense, to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights specified to be so owned or assigned. I hereby irrevocably designate and appoint Company as its agents and attorneys-in-fact to act for and in my behalf to execute and file any document and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by me. If I wish to clarify that something created by me prior to my employment that relates to Company's actual or proposed business is not within the scope of this Agreement, I have listed it on Appendix B. If I use or (except pursuant to this Section 2) disclose my own or any third party's confidential information or intellectual property when acting within the scope of my employment or otherwise on behalf of Company, Company will have and I hereby grant Company a perpetual, irrevocable, worldwide royalty-free, non-exclusive, sublicensable right and license to exploit and exercise all such confidential information and intellectual property rights.

3. To the extent allowed by law, paragraph 2 includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as "moral rights," "artist's rights," "droit moral," or the like (collectively "Moral Rights"). To the extent I retain any such Moral Rights under applicable law, I hereby ratify and consent to any action that may be taken with respect to such Moral Rights by or authorized by Company, and

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agree not to assert any Moral Rights with respect thereto. I will confirm any such ratifications, consents and agreements from time to time as requested by Company.

4. I agree that all Inventions and all other business, technical and financial information (including, without limitation, the identity of and information relating to customers or employees) I develop, learn or obtain during the term of my employment that relate to Company or the business or demonstrably anticipated business of Company or that are received by or for Company in confidence, constitute "Proprietary Information." I will hold in confidence and not disclose or, except within the scope of my employment, use any Proprietary Information. However, I shall not be obligated under this paragraph with respect to information I can document is or becomes readily publicly available without restriction through no fault of mine. Upon termination of my employment, I will promptly return to Company all items containing or embodying Proprietary Information (including all copies), except that I may keep my personal copies of (i) my compensation records, (ii) materials distributed to shareholders generally and (iii) this Agreement. I also recognize and agree that I have no expectation of privacy with respect to Company's telecommunications, networking or information processing systems (including, without limitation, stored computer files, email messages and voice messages) and that my activity and any files or messages on or using any of those systems may be monitored at any time without notice.

5. Until one year after the term of my employment, I will not encourage or solicit any employee or consultant of Company to leave Company for any reason (except for the bona fide firing of Company personnel within the scope of my employment).

6. I agree that during the term of my employment with Company (whether or not during business hours), I will not engage in any activity that is in any way competitive with the business or demonstrably anticipated business of Company, and I will not assist any other person or organization in competing or in preparing to compete with any business or demonstrably anticipated business of Company.

7. I agree that this Agreement is not an employment contract for any particular term and that I have the right to resign and Company has the right to terminate my employment at will, at any time, for any or no reason, with or without cause. In addition, this Agreement does not purport to set forth all of the terms and conditions of my employment, and, as an employee of Company, I have obligations to Company which are not set forth in this Agreement. However, the terms of this Agreement govern over any inconsistent terms and can only be changed by a subsequent written agreement signed by the President of Company.

8. I agree that my obligations under paragraphs 2, 3, 4 and 5 of this Agreement shall continue in effect after termination of my employment, regardless of the reason or reasons for termination, and whether such termination is voluntary or involuntary on my part, and that Company is entitled to communicate my obligations under this Agreement to any future employer or potential employer of mine. My obligations under paragraphs 2, 3 and 4 also shall be binding upon my heirs, executors, assigns, and administrators and shall inure to the benefit of Company, its subsidiaries, successors and assigns.

9. Any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of California without regard to the conflict of laws provisions thereof. I further agree that if one or more provisions of this Agreement are held to be illegal or unenforceable under applicable California law, such illegal or unenforceable portion(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms. I also understand that any breach of this Agreement will cause irreparable harm to Company for which damages would not be a adequate remedy, and, therefore, Company will be entitled to injunctive relief with respect thereto in addition to any other remedies.

10. Subject to the exceptions set forth below, I agree that any and all claims or disputes that I have with the Company, or any of its employees, which arise out of my employment or under the terms of my employment, shall be resolved through final and binding arbitration, as specified herein. This shall include, without limitation, disputes relating to this Agreement, my employment by the Company or the termination thereof, claims for breach of contract or breach of the covenant of good faith and fair dealing, and any claims of discrimination or other claims under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the California Fair Employment and Housing Act, the Employee Retirement Income Securities Act, the Racketeer Influenced and Corrupt Organizations Act, or any other federal, state or local law or regulation now in existence or hereinafter enacted and as amended from time to time concerning in any way the subject of my employment with the Company or its termination. The only claims or disputes not covered by this paragraph are disputes related to (i) claims for benefits under the unemployment insurance or workers' compensation laws, and (ii) issues affecting the validity, infringement or enforceability of any trade secret, patent, copyright or other intellectual property rights held or sought by the Company or which the Company could otherwise seek; in both of the foregoing cases such claims or disputes shall not be subject to arbitration and will be resolved pursuant to applicable law. Binding arbitration will be conducted in San Mateo County, California in accordance with the rules and regulations of the American Arbitration Association (AAA). If, at the time the dispute in question arose, I lived and worked more than one hundred (100) miles from San Mateo County, California, then I have the option of requesting that the arbitration take place in the county in which the Company has an office that is nearest to my home. Each party will split the cost of the arbitration filing and hearing fees, and the cost of the arbitrator. Each side will bear its own attorneys' fees; that is, the arbitrator will not have authority to award attorneys' fees unless a statutory section at issue in the dispute authorizes the award of attorneys' fees to the prevailing party in which case the arbitrator has authority to make such award as permitted by the statute in question. I understand and agree that the arbitration shall be instead of any jury trial and that the arbitrator's decision shall be final and binding to the fullest extent permitted by law and enforceable by any court having jurisdiction thereof.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO ME TO INDUCE ME TO SIGN THIS AGREEMENT. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT ONE COUNTERPART WILL BE RETAINED BY COMPANY AND THE OTHER COUNTERPART WILL BE RETAINED BY ME.

January 31, 1998

Employee

Bryan Gleeson
Bryan Gleeson

Accepted and Agreed to:
SHASTA NETWORKS, INC.

By: 

Title: President